



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2022-0173; FRL-9702-02-R9]

#### **Air Plan Approval; Nevada; Clark County Department of Environment and Sustainability**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Clark County Department of Environment and Sustainability (DES) portion of the Nevada State Implementation Plan (SIP). This revision clarifies and amends an administrative rule consistent with changes to state statutes and county code.

**DATES:** This rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] without further notice, unless the EPA receives adverse comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If we receive such comments, we will publish a timely withdrawal in the *Federal Register* to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0173 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional

submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Christine Vineyard, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4125 or by email at [vineyard.christine@epa.gov](mailto:vineyard.christine@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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## **I. The State’s Submittal**

- A. *What rule did the State submit?*

Table 1 lists the rule addressed by this action with the dates that it was adopted by the

Clark County DES and submitted by the Nevada Division of Environmental Protection (NDEP).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Revised	Submitted
Clark County DES	Section 4	Control Officer	12/17/19	3/16/20 <sup>1</sup>

On September 16, 2020, the submitted rule in Table 1 was deemed to be complete by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

*B. Are there other versions of this rule?*

We approved an earlier version of Section 4, Subsections 4.1 – 4.11 (excluding subsection 4.7.3), into the SIP on August 27, 1981 (46 FR 43141); Subsection 4.7.3 on June 18, 1982 (47 FR 26386); and Subsections 4.12, 4.12.1, 4.12.2 and 4.12.3 on August 27, 1981 (46 FR 43141). The Clark County DES adopted revisions to the SIP-approved version on December 17, 2019, and NDEP submitted it to us on March 16, 2020.

*C. What is the purpose of the submitted rule revision?*

Clark County DES Section 4 provides the Control Officer with certain authorities and establishes certain duties that the Control Officer must fulfill. The authorities covered in Section 4 include such authorities as the authority to enter and inspect any property where emissions sources are located, the authority to require owners or operators of stationary sources to provide emissions-related information and the authority to require source testing. Duties under Section 4 include, among others, the duty to initiate enforcement proceedings (under certain circumstances) and the duty to notify the public on a regular basis of instances or areas in which any ambient air quality standard was exceeded during any portion of the preceding calendar year.

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<sup>1</sup> NDEP submitted amended Clark County DES Section 4 to the EPA electronically on March 16, 2020, as an attachment to a letter dated March 13, 2020.

The purpose of this submitted rule revision is to clarify the authorities and duties of the Control Officer and to conform Section 4 with related changes made to the Nevada Revised Statutes (NRS) and to Clark County Code.

The EPA's technical support document (TSD) and submitted staff report have more information about these rules.

## **II. The EPA's Evaluation and Action**

### *A. How is the EPA evaluating the rule?*

As a general matter, rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). This SIP revision involves an administrative rule that establishes authorities to take certain actions necessary to enforce SIP emissions limitations and establishes certain obligations to initiate enforcement proceedings and to notify the public of certain air-quality-related information. Relevant regulatory provisions include 40 CFR 51.230 ("Requirements for all plans") and 40 CFR 51.285 ("Public notification").

Guidance and policy documents that we generally use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

B. *Does the rule meet the evaluation criteria?*

This rule is consistent with CAA requirements and the relevant regulatory provisions at 40 CFR 51.230 and 40 CFR 51.285. The TSD has more information on our evaluation.

C. *Public comment and final action*

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements.<sup>2</sup> We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, we are simultaneously proposing approval of the same submitted rule elsewhere in this issue of the *Federal Register*. If we receive adverse comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], we will publish a timely withdrawal in the *Federal Register* to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. This will incorporate the rule into the federally enforceable SIP.

### **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Clark County DES Section 4 described in Section I of this preamble and set forth below in the amendments to 40 CFR part 52. Therefore, this material has been approved by EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference

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<sup>2</sup> Upon the effective date of this final action, Clark County DES Section 4 will supersede existing Clark County District Board of Health Air Pollution Control Regulation Section 4, approved at 46 FR 43141 (August 27, 1981) and at 47 FR 26386 (June 18, 1982), in the applicable SIP.

in the next update to the SIP compilation.<sup>3</sup> The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

#### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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<sup>3</sup> 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the ***Federal Register***. A major rule cannot take effect until 60 days after it is published in the ***Federal Register***. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE ***FEDERAL REGISTER***]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of

this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this *Federal Register*, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

Dated: April 13, 2022.

Deborah Jordan,  
*Acting Regional Administrator,*  
*Region IX.*

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### **PART 52 — APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### **Subpart DD — Nevada**

2. In § 52.1470(c), Table 3 is amended by revising the entry for “Section 4: Subsections 4.1-4.11 (excluding subsection 4.7.3)” and removing the entries for “Section 4 (Control Officer): Subsection 4.7.3” and “Section 4 (Control Officer): Subsections 4.12, 4.12.1-4.12.3” to read as follows:

#### **§ 52.1470 Identification of plan.**

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TABLE 3 - EPA-APPROVED CLARK COUNTY REGULATIONS

County citation	Title/Subject	County effective date	EPA approval date	Additional explanation
*	*	*	*	*
Section 4	Control Officer	12/17/19	[INSERT <i>Federal Register</i> CITATION], [INSERT DATE OF PUBLICATION	Submitted electronically on March 16, 2020, as an attachment to a letter dated March 13, 2020.
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[FR Doc. 2022-08422 Filed: 4/20/2022 8:45 am; Publication Date: 4/21/2022]